

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-204952

DATE: July 13, 1982

MATTER OF: Joe D. Anderson - Real estate expenses -
Transfer from overseas duty station

DIGEST: Civilian employee of the Department of the Army transferred from Fort Lewis, Washington, to Seoul, Korea, with reemployment rights at Fort Lewis. His actual residence was in Tacoma, Washington. Upon completion of his overseas tour of duty, the employee was reemployed at Salem, Oregon, instead of Fort Lewis. He is not entitled to reimbursement of real estate expenses incurred in selling his residence in Tacoma or purchasing a residence in Salem. Under 5 U.S.C. § 5724(a)(4) and FTR paragraph 2-6.1 (a), both the old and new duty stations must be located in the United States for reimbursement of real estate expenses. Here, the actual return transfer of the employee was from Seoul, Korea, to Salem, Oregon.

Mr. Joe D. Anderson, a civilian employee of the Department of the Army, has appealed Settlement Certificate Z-2827733, June 17, 1981, issued by our Claims Group, which disallowed his claim for reimbursement of the costs incurred in the sale of his home in Tacoma, Washington, and the purchase of another residence at Salem, Oregon, incident to his change of official station from Seoul, Korea, to Salem, Oregon.

The principal issue here is whether an employee with reemployment rights at his former duty station in the United States, who is transferred by an agency from an overseas duty station to a duty station in the United States, other than the one from which he was transferred abroad, may be reimbursed for expenses incurred in selling his old residence or buying a new residence, or both. For the reasons set forth below, we hold that the employee may not be reimbursed for these expenses.

The facts, briefly stated, are as follows. Mr. Anderson was transferred from Fort Lewis, Washington, to Seoul, Korea, in August 1972. At the time of that

transfer, his residence was in Tacoma, Washington. He was unable to sell his home due to very poor economic conditions in the Seattle-Tacoma area caused by enormous cutbacks in the aircraft industry.

In July 1978, Mr. Anderson was transferred to Salem, Oregon. His official travel orders stated that his actual residence was in Tacoma, Washington, and his duty station in Salem, Oregon. The claimant purchased a residence in Salem in October 1978 and sold his Tacoma residence in April 1979.

Mr. Anderson states that he had reemployment rights to return to Fort Lewis, Washington, for 90 days, but that his services were needed in Salem, Oregon. He contends that since his travel orders indicated that his actual residence was in Tacoma, Washington, by transferring directly to Salem, Oregon, he saved the Government money and should be reimbursed the expenses incurred in selling his home in Tacoma and purchasing a replacement residence in Salem.

Subsection 5724a(a)(4) of title 5, United States Code, provides that an employee transferred in the interest of the Government from one official station to another for permanent duty may be reimbursed the expenses of the sale of his residence at the old station and the purchase of a home at the new official station when the old and new official stations are located within the United States. See also paragraph 2-6.1(a), Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR), and paragraph C14000-1(1), Volume 2, Joint Travel Regulations, which prohibit such payments to employees transferred from a post of duty outside the United States.

This Office has consistently held that 5 U.S.C. § 5724a requires that both the old and new duty stations be located within the areas listed. 54 Comp. Gen. 1006 (1975); 47 id. 93 (1967); Army Corps of Engineers, B-194423, March 31, 1980; and B-161815, July 6, 1972, which discusses and elaborates on the rationale of 47 Comp. Gen. 93, supra.

The requirement that the old and new duty stations be located in the United States or the other areas listed is controlling even when the travel order shows the employee is to be assigned to a different station

within the United States upon completion of the overseas tour of duty. Hugh C. Miller, B-182002, May 29, 1975. The fact that an employee has been unable to take his immediate family with him on the overseas tour of duty does not change the requirement. B-169696, June 2, 1970. Nor can the requirement be circumvented by a short tour of duty at the old duty station in the United States between the overseas tour and the final duty station. B-172594, March 27, 1974.

The sole basis for the payment of expenses incurred incident to the sale and purchase of a residence is that provided by statute. Congress, in enacting the law, has limited its application to those cases where both the old and new official stations are located within the United States or other named locations, and this Office may not, by interpretation, extend its application to include situations involving transfers from or to official stations located in foreign countries. Army Corps of Engineers, supra. Inasmuch as Mr. Anderson's old duty station (Seoul, Korea) was not located in the United States, there is no authority for reimbursement of the claimed real estate expenses.

With respect to Mr. Anderson's return rights to Fort Lewis, Washington, from Korea, under 10 U.S.C. § 1586 (1976), a program has been established within the Department of Defense for the benefit of civilian personnel transferring overseas whereby such employees have a right to return to their old position after satisfactory completion of their overseas tour of duty. Under usual conditions, an employee who transfers overseas with reemployment rights at his old station is not affected by the lack of real estate benefits. However, the fact that an employee on duty overseas has return rights to his old official station in the United States does not entitle him to reimbursement of real estate expenses under FTR paragraph 2-6.1(a), upon his return from a foreign country to a different official station in the United States. Rather, the actual change of duty stations is to be considered in deciding whether the exclusion in paragraph 2-6.1(a)

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applies. Ignacio J. Pangelinan, B-203007, October 9, 1981; Jack E. Wells, B-169490, October 9, 1975; Albert Salloom, B-130230, November 30, 1976.

Although Mr. Anderson's travel orders indicated that his actual residence was in Fort Lewis, Washington, he in fact returned directly to Salem, Oregon, a different duty station, from Seoul, Korea, a post of duty outside the United States. Therefore, he is not entitled to reimbursement of the expenses incurred in the sale of his old residence at Tacoma, Washington, nor the purchase of his new residence at Salem, Oregon.

Accordingly, the denial of the claim is sustained.

Sheldon J. Fowler
for Comptroller General
of the United States